

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                                |   |                                    |
|--------------------------------|---|------------------------------------|
| CHARLES M. LYNN,               | ) |                                    |
|                                | ) | Civil Action No. 03 - 846          |
| Plaintiff,                     | ) |                                    |
|                                | ) | Judge William L. Standish /        |
| v.                             | ) | Magistrate Judge Lisa Pupo Lenihan |
|                                | ) |                                    |
| LT. JOHN E. CHRISTNER,         | ) |                                    |
| and OFFICER GEORGE T. MILKENT, | ) |                                    |
|                                | ) |                                    |
| Defendant.                     | ) |                                    |

**ORDER**

A Status Conference (Doc. No. 50) was held in this case on November 6, 2006, in which the Plaintiff participated telephonically. At that conference, a deadline for dispositive motions was established as January 8, 2007. Responses to any dispositive motions were to be filed no later than February 8, 2007. Defendants filed a timely Motion for Summary Judgment (Doc. No. 51) on January 8, 2007, but Plaintiff has neither filed a response by the established deadline, nor has he requested additional time to prepare his response. Therefore,

**IT IS HEREBY ORDERED** this 27<sup>th</sup> day of February, 2007, that plaintiff shall be allowed until **March 27, 2007**, to respond to defendants' motion for summary judgment. Plaintiff is advised that his response to the motion may include opposing or counteraffidavits (executed by the plaintiff or other persons) which have either been sworn to under oath (notarized) or include at the end of the document, immediately before the plaintiff's signature, the following in accordance

with 28 U.S.C. § 1746: "I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**IT IS FURTHER ORDERED** that all affidavits, opposing or counteraffidavits must be based upon the personal knowledge of the person executing the affidavit; that no affidavit, amended complaint, pretrial narrative or other document containing plaintiff's allegations will be considered when determining the motion for summary judgment unless it has been notarized before a notary public or unless it contains a declaration under penalty of perjury as set forth above; that plaintiffs may attach to their affidavits copies of any depositions, answers to interrogatories, institutional records or other documents they wish this court to consider when addressing the summary judgment motion; and that the motion for summary judgment will be evaluated under the procedure standard set forth in Rule 56 of the Federal Rules of Civil Procedure; and that failure to respond may result in entry of judgment against them.

**IT IS FURTHER ORDERED** that plaintiff shall serve on counsel for defendant a copy of each pleading or other document submitted for consideration by the court and shall include with each document filed a certificate stating the date a true and correct copy of the pleading or document was mailed to each attorney. Any pleading or other document received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service shall be returned to the plaintiffs by the Clerk.

**IT IS FURTHER ORDERED** that should Plaintiff not file a response to defendants' motion for summary judgment by March 27, 2007, the Court will issue a report and recommendation to the District Judge based on the record available.

**IT IS FURTHER ORDERED** that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

  
\_\_\_\_\_  
LISA PUPO LENIHAN  
U.S. Magistrate Judge

cc: Counsel of record

CHARLES M. LYNN  
222 Mathews Road  
Belle Vernon, PA 15012